

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
V.)	CRIMINAL NO. SA-18-CR-043-DAE
)	
RICHARD NIKOLAI GRATKOWSKI,)	
)	
Defendant.)	

**UNITED STATES OF AMERICA'S
MOTION FOR FINAL JUDGMENT OF FORFEITURE**

Comes now the United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, and files its Motion for Final Judgment of Forfeiture, pursuant to the provisions of Fed. R. Crim. P. 32.2(c)(2) and Title 21 U.S.C. §§ 853(n)(1-7), and in support thereof says the following:

I.

On December 19, 2018, Defendant RICHARD NIKOLAI GRATKOWSKI entered a plea of guilty pursuant to a written Plea Agreement (Doc. 80), to Counts One and Two of the Indictment (Doc. 14) returned against him, charging him with the violations of Title 18 U.S.C. §§ 2252A(a)(2) and (b) and 2252A(a)(5)(B).

II.

As part of his guilty plea, said Defendant agreed to forfeit his interest in certain properties and stipulated that the factual basis within his Plea Agreement (Doc. 80) was true and correct, which establishes by a preponderance of the evidence the nexus between the below listed properties that were used to commit or promote the commission of the violation:

- 1.) Dell XPS 9100 desktop computer serial number: BGYTKN1;**
- 2.) Apple iPhone 6; serial number: FK2PN7VSG5QY; and**

3.) Accomdata external HDD with serial number: D13605981,

hereinafter referred to as the “Subject Personal Properties”.

Defendant RICHARD NIKOLAI GRATKOWSKI’s Plea Agreement (Doc. 80) and the factual basis contained therein establish that the Subject Personal Properties are subject to forfeiture to the United States pursuant to Title 18 U.S.C. §§ 2253(a)(1), (2), and (3) for violations of Title 18 U.S.C. §§ 2252A(a)(2) and (b) and 2252A(a)(5)(B).

III.

On May 24, 2019, this Court entered a Preliminary Order of Forfeiture (Doc. 94) and pursuant to said order, the notice of forfeiture was posted on an official government internet website (www.forfeiture.gov) for at least thirty (30) consecutive days, beginning on July 3, 2019 and ending on August 1, 2019, as required by Fed. R. Crim. P. 32.2(b)(6)(C). The Declaration of Publication (Doc. 112) was filed on August 8, 2019.

IV.

In addition to the internet publication of public notice, the following individual was served with notice of this criminal forfeiture action:

- On July 18, 2019, direct notice of the Preliminary Order of Forfeiture was mailed by certified mail, return receipt requested and through regular mail to Melissa Gratkowski at her last known addresses. The notice sent by certified mail was returned to this office as unclaimed, however, notice sent through regular mail was not returned.

V.

The United States of America knows of no other potential persons or entities who may have a third-party interest in the Subject Personal Properties. Court records for the United States District

¹ The United States advises the Court that the serial numbers for assets 1 and 2 were not available in previous pleadings, however, they are included in the instant motion.

Clerk's Office, San Antonio Division, reveal that no petitions were filed in this cause by any third-party interests against the Subject Personal Properties pursuant to the provisions of Title 21 U.S.C. §§ 853(n)(1-7) and Fed. R. Crim. P. 32.2(b)(2), and the time for filing such petitions has expired.

VI.

On May 28, 2019, Defendant RICHARD NIKOLAI GRATKOWSKI was sentenced to be imprisoned for a total term of seventy (70) months as to Count One (1) and seventy (70) months as to Count Two (2) terms to run concurrently with credit for time served and the Subject Personal Properties were included in Judgment in his Criminal Case (Doc. 101) entered by this Court on June 11, 2019.

VII.

Plaintiff, United States of America moves the Court to find that the United States of America has established the requisite nexus between the Subject Personal Properties and the above-described violations by virtue of Defendant's Plea Agreement (Doc. 80) and the factual basis contained therein. The United States further moves the Court to find that Defendant RICHARD NIKOLAI GRATKOWSKI has an interest in the Subject Personal Properties.

Plaintiff, United States of America, further moves the Court to order that any and all right, title, and interest of Defendant RICHARD NIKOLAI GRATKOWSKI in the Subject Personal Properties be forfeited to the United States of America.

Plaintiff, United States of America, further moves the Court to order that any and all right, title, and interest of Melissa Gratkowski in the Subject Personal Properties be held in default, and be forfeited to the United States of America.

Plaintiff, United States of America, further moves the Court to order that any and all right, title, and interest of any and all other potential petitioners in the Subject Personal Properties be held

in default, and be forfeited to the United States of America.

Plaintiff, United States of America, further moves this Court to order that the Federal Bureau of Investigation and United States Marshals Service, and/or their designated agent, shall dispose of the Subject Personal Properties in accordance with law at such time when all appeals have been exhausted.

Plaintiff, United States of America, further moves this Court to order that all terms and provisions contained in this Court's Preliminary Order of Forfeiture (Doc. 94) entered on May 24, 2019, in so much as may be applicable and consistent with this Order, shall remain in full force and effect.

WHEREFORE, ALL PREMISES CONSIDERED, the United States of America moves this Honorable Court for a Final Judgment of Forfeiture against the Subject Personal Properties wherein all right, title, and interest in said Subject Personal Properties shall enure to the United States of America.

Respectfully submitted,
JOHN F. BASH
United States Attorney

By: /s/
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CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2019, the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System which will transmit notification of such filing to the following CM/ECF participant:

Marina Thais Douenat
Office of the Federal Public Defender
727 E. Cesar E. Chavez Blvd.
San Antonio, TX 78206
Email: marina_douenat@fd.org
Attorney for *RICHARD NIKOLAI GRATKOWSKI*

/s/ _____
ANTONIO FRANCO, JR.
Assistant United States Attorney
Tel: (210) 384-7040

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA,)	
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Plaintiff,)	
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V.)	CRIMINAL NO. SA-18-CR-043-DAE
)	
RICHARD NIKOLAI GRATKOWSKI,)	
)	
Defendant.)	

FINAL JUDGMENT OF FORFEITURE

Came on to be considered the United States of America's Motion for Final Judgment of Forfeiture, pursuant to the provisions of the Fed. R. Crim. P. 32.2(c)(2) and Title 21 U.S.C. §§ 853(n)(1)-(7), and this Court being fully and wholly apprised in all its premises, finds said Motion meritorious. The Court finds that the United States of America has proven by a preponderance of the evidence the nexus between the below-described properties and violations of Title 18 U.S.C. §§ 2252A(a)(2) and (b) and 2252A(a)(5)(B) by virtue of Defendant's Plea Agreement and the factual basis contained therein. The Court further finds that RICHARD NIKOLAI GRATKOWSKI has an interest in the Subject Personal Properties and does hereby GRANT said Motion. IT IS THEREFORE,

ORDERED that any and all right, title, and interest of Defendant RICHARD NIKOLAI GRATKOWSKI in the below listed properties, to wit:

- 1.) Dell XPS 9100 desktop computer serial number: BGYTKN1;**
- 2.) Apple iPhone 6; serial number: FK2PN7VSG5QY; and**
- 3.) Accomdata external HDD with serial number D1360598,**

hereinafter referred to as the "Subject Personal Properties"; be and hereby are forfeited to the United States of America; and IT IS FURTHER

ORDERED that any and all right, title, and interest of Melissa Gratkowski in the Subject Personal Properties be, and hereby is, held in default and FORFEITED to the United States of America; and IT IS FURTHER

ORDERED that any and all right, title, and interest of any and all other potential petitioners in the Subject Personal Properties be, and hereby are, held in default and FORFEITED to the United States of America; and IT IS FURTHER

ORDERED that the Federal Bureau of Investigation and United States Marshals Service, and/or their designated agent, shall dispose of the Subject Personal Properties in accordance with law at such time when all appeals have been exhausted and IT IS FURTHER

ORDERED that all terms and provisions contained in this Court's Preliminary Order of Forfeiture (Doc. 94) entered on May 24, 2019, in so much as may be applicable and consistent with this Order, shall remain in full force and effect.

IT IS SO ORDERED.

SIGNED this _____ day of _____, 2019.

DAVID A. EZRA
Senior United States District Judge